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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 STEVEN DANIEL MILLER, A/K/A STEVE
DANIEL MILLER,
15 Defendant.
16

CASE NO. 2:23-CR-250-DJC

STIPULATION AND [PROPOSED]
PROTECTIVE ORDER BETWEEN
THE PARTIES REGARDING
DISCOVERY

17 I. **STIPULATION**
18

19 1. Plaintiff United States of America (“government”), by and through its counsel of
record, and defendant Steven Daniel Miller a/k/a Steve Daniel Miller (“defendant”), by and through
20 his counsel of record (collectively, the “parties” to this stipulation), for the reasons set forth below,
21 hereby stipulate, agree, and jointly request that the Court enter a Protective Order in this case
22 restricting the use and dissemination of certain materials containing personal identifying information
23 (“PII”) of real persons and other confidential information of victims, witnesses, and third parties.

24 2. As part of its investigation in this case, the government is in possession of materials
25 relating to the charges against the defendant, including voluminous bank records, search warrant
26 evidence, and other evidence that contains PII and other confidential information for real persons,
27 including, among other things, personal names, Social Security numbers, Driver’s License numbers,

1 and dates of birth. These real persons include victims, witnesses, and/or third parties to this case.

2 | The government seeks to provide these materials to counsel for the defendant.

3 3. The purpose of the proposed Protective Order is to prevent the unauthorized
4 dissemination, distribution, or use of materials containing the PII and confidential personal
5 information of others. If this information is disclosed without protective measures, or to defendant
6 without limitation, it will risk the privacy and security of the people to whom the information relates.
7 The information could itself be used to further criminal activity if improperly disclosed or used. The
8 United States has ongoing statutory and ethical obligations to protect victims.

9 4. Due to the nature of this case, including the extensive financial records involved, PII
10 makes up a significant part of the discovery materials, and this information in many instances has
11 evidentiary value itself. The large quantity of privacy-protected information would be difficult or
12 time-consuming to redact. Further, if the government were to attempt to redact all this information,
13 the defense would receive a set of discovery that would be confusing and difficult to understand, and
14 could inhibit prompt and just resolution of the case.

15 5. Accordingly, the parties jointly request a Protective Order that will permit the
16 government to produce discovery that is unredacted, but preserves the privacy and security of
17 victims, witness, and third parties. The parties agree that the following conditions, if ordered by the
18 Court in the proposed Protective Order, will serve the government's interest in maintaining the
19 privacy and security of victims and third parties, while permitting the Defense Team to understand
20 the United States' evidence against the defendant.

21 6. This Court may enter protective orders pursuant to Rule 16(d) of the Federal Rules of
22 Criminal Procedure, Local Rule 141.1, and its general supervisory authority.

II. ~~PROPOSED~~ PROTECTIVE ORDER

A. Protected Materials

25 7. This Order pertains to all discovery provided or made available to defense counsel in
26 this case (hereafter, collectively “Protected Materials”).

27 8. For purposes of the Protective Order, the term “Personal Identifying Information”
28 (“PII”) includes any information within the definition of “personal data identifiers” at Local Rule

1 140(a).

2 9. To the extent that notes are made that memorialize, in whole or in part, the PII in any
3 Protected Materials, or to the extent that copies are made for authorized use by members of the
4 Defense Team, such notes, copies, or reproductions become Protected Materials, subject to the
5 Protective Order and must be handled in accordance with the terms of the Protective Order.

6 **B. Defense Team**

7 10. For purposes of this Order, the term “Defense Counsel” refers to the defendant’s
8 counsel of record.

9 11. For purposes of this Order, the term “Defense Team” refers to (1) the defendant’s
10 counsel of record, (2) other attorneys at defense counsel’s law firm or defense organization who may
11 be consulted regarding case strategy in the above-captioned matter, (3) defense investigators who are
12 assisting defense counsel with this case, (4) retained experts or potential experts, and (5) paralegals,
13 legal assistants, and other support staff to defendant’s counsel of record providing assistance on this
14 case. The term “Defense Team” does not include defendant, the defendant’s family, or other
15 associates of the defendant.

16 12. Defense Counsel must provide a copy of this Order to all members of the Defense
17 Team.

18 **C. Disclosure of Protected Materials**

19 13. No person or party shall use any Protected Materials or information derived from
20 Protected Materials produced in this action for any purpose other than use in the above-captioned
21 case. All Protected Materials shall be used solely for the purpose of conducting and preparing for
22 pre-trial, post-trial, and appellate proceedings (both direct and collateral) and in this criminal action
23 for no other purposes whatsoever, and shall not be used for the economic or other benefit of the
24 defendants, or any third party. Protected Materials may be disclosed only to the categories of
25 persons and under the conditions described in this Order.

26 14. Defendant may review Protected Materials in this case only in the presence of a
27 member of the Defense Team, and his Defense Counsel shall ensure that defendant is never left
28 alone with any Protected Information. Defendant may not copy, keep, maintain, or otherwise

1 possess any of such Protected Materials at any time. Defendant must return any Protected Materials
2 to the Defense Team at the conclusion of any meeting at which defendant reviews the Protected
3 Materials. Defendant may not take any Protected Materials out of the room in which he is meeting
4 with the Defense Team. Defendant may not write down or memorialize any PII contained in the
5 Protected Materials. At the conclusion of any meeting with defendant, the member of the Defense
6 Team present shall take with him or her all Protected Materials. At no time, under any
7 circumstances, will any Protected Materials be left in the possession, custody, or control of the
8 defendant, whether or not he is incarcerated, except as provided below in Paragraphs 15 and 26.

9 15. If, during the pendency of the case, defendant requests a copy of the Protected
10 Materials from Defense Counsel, Defense Counsel may provide a copy of the Protected Materials to
11 the defendant provided that Defense Counsel ensures that all PII contained in the Protected Materials
12 is fully redacted. If Defense Counsel provides a redacted copy to defendant subject to these
13 conditions, Defense Counsel or a member of the Defense Team must contemporaneously
14 memorialize in writing that it has fully redacted PII from the Protected Materials and complied with
15 this Order. This written certification need not be disclosed or produced to the United States unless
16 ordered by the Court.

17 16. The Defense Team may review Protected Materials with a witness or potential
18 witness in this case, including the defendant, subject to the requirement above that a member of the
19 Defense Team must be present if Protected Materials are being shown to the defendant. Before
20 being shown any portion of the Protected Materials, however, any witness or potential witness,
21 including the defendant, must be informed of the existence of the Protective Order and given a copy
22 of the Protective Order. No witness or potential witness may retain Protected Materials, or any copy
23 thereof, after his or her review of those materials with the Defense Team is complete.

24 17. This Order does not limit employees of the United States Attorney's Office for the
25 Eastern District of California from disclosing the Protected Materials to members of the United
26 States Attorney's Office, law enforcement agencies, the Court, and defense.

27 18. Defense Counsel shall advise the United States with reasonable notice of any
28 subpoenas, document requests, or claims for access to the Protected Materials by third parties if

1 Defense Counsel is considering disseminating any of the Protected Materials to a third party, in
2 order that the United States may take action to resist or comply with such demands as it may deem
3 appropriate.

4 **D. Ensuring Security of Protected Materials**

5 19. The Defense Team shall maintain the Protected Materials safely and securely, and
6 shall exercise reasonable care in ensuring the security and confidentiality of the Protected Materials
7 by storing the Protected Materials in a secure place, such as a locked office, or otherwise secure
8 facility where visitors are not left unescorted.

9 20. A copy of the Protective Order must be stored with the discovery, in paper form and
10 electronically.

11 21. To the extent that Protected Materials, or any copies or reproductions thereof, are
12 stored electronically, the Protected Materials will be stored on a password-protected or encrypted
13 storage medium, including a password-protected computer, or device. Encryption keys must be
14 stored securely and not written on the storage media that they unlock.

15 22. If a member of the Defense Team makes, or causes to be made, any further copies of
16 any of the Protected Materials, Defense Counsel will ensure that the following notation is written,
17 stamped or inscribed on whatever folder, container, or media contains the copies: "PROTECTED
18 MATERIALS-SUBJECT TO PROTECTIVE ORDER." For example, if Defense Counsel makes a
19 copy of a disc or physical file containing Protected Materials, the duplicate disc or file must be
20 encrypted and marked with the above notation.

21 **E. Filings**

22 23. In the event that a party needs to file Protected Materials containing PII, or materials
23 otherwise identified as containing confidential information of victims, witnesses, or third parties
24 with the Court, or disclose PII in court filings, the filing should be made under seal as provided for
25 by the local rules. If the Court rejects the request to file such information under seal, the party
26 seeking to file such information shall provide advance written notice to the other party to afford such
27 party an opportunity to object or otherwise respond to such intention. If the other party does not
28 object to the proposed filing, the party seeking to file such information shall redact the PII or

1 confidential materials and make all reasonable attempts to limit the divulging of PII or confidential
2 materials.

3 **F. Conclusion of Prosecution**

4 24. The provisions of this Order shall not terminate at the conclusion of this prosecution.
5 All Protected Materials subject to the Protective Order maintained in the Defense Team's files shall
6 remain subject to the Protective Order unless and until such Order is modified by the Court.

7 25. Upon final disposition of the case, including exhaustion of direct and collateral
8 appellate proceedings, Defense Counsel shall return the Protected Materials to the government, or
9 certify in writing that the Protected Materials have been destroyed. If any Protected Materials are
10 used as defense exhibits, they shall be maintained with government exhibits so long as those are
11 required to be maintained.

12 26. If, upon final disposition of the case, defendant requests a copy of the Protected
13 Materials from Defense Counsel, Defense Counsel may provide a copy of the Protected Materials to
14 the defendant provided that Defense Counsel ensures that all PII contained in the Protected Materials
15 is fully redacted. If Defense Counsel provides a redacted copy to defendant subject to the above
16 conditions, Defense Counsel or a member of the Defense Team must contemporaneously attest in
17 writing that it has fully redacted PII from the Protected Materials and complied with this Order. This
18 written certification need not be disclosed or produced to the United States unless ordered by the
19 Court.

20 **G. Termination or Substitution of Counsel**

21 27. In the event that there is a substitution of counsel prior to final disposition of the case,
22 Defense Counsel will not disclose Protected Materials to the newly substituted counsel until that
23 attorney has negotiated a protective order or other agreement with the government's counsel, or is
24 bound by the Court pursuant to a protective order. All members of the Defense Team, whether
25 current or past counsel, are at all times subject to the Protective Order and are not relieved by
26 termination of representation or conclusion of the prosecution.

27 **H. Modification of Order**

28 28. Nothing in this Order shall prevent any party from seeking modification to the Order

1 or from objecting to discovery it otherwise believes to be improper. Nothing in this Order shall
2 prevent any party from seeking a more restrictive protective order with regard to particular discovery
3 items.

4 **I. Application of Laws**

5 29. Nothing in this Order shall be construed to affect or comment on the admissibility or
6 discoverability of the Protected Materials.

7 30. Nothing in this Order shall be construed to affect the application or and the parties'
8 compliance with the Federal Rules of Criminal Procedure, Local Rules, and applicable statutes.

9 Dated: October 16, 2023

10 PHILLIP A. TALBERT
United States Attorney

11 By: /s/ DENISE N. YASINOW
12 DENISE N. YASINOW
13 Assistant United States Attorney

14 Dated: October 16, 2023

15 By: /s/ MARK REICHEL
16 MARK REICHEL
17 Counsel for Defendant
STEVEN DANIEL MILLER
A/K/A STEVE DANIEL
MILLER

[PROPOSED] FINDINGS AND ORDER

The Court having read and considered the Stipulation and Joint Request for a Protective Order, which this Court incorporates by reference into this Order in full, hereby finds that GOOD CAUSE exists to enter the above Order.

IT IS SO FOUND AND ORDERED this 17th day of October, 2023.


THE HONORABLE JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE